NY Times

[Nomination of Kleindienst 15 Fe.;
Nixon leaves for China 17 Feb.]

MITCHELL QUITS; NOMINATION GOES TO KLEINDIENST

Attorney General to Leave March 1 to Direct Nixon Presidential Campaign

SENATE FIGHT FORESEEN

Confirmation Hearings May Focus on Deputy's Views on Law and Liberty

NY Times

By FRED P. GRAHAM
Special to The New York Times

WASHINGTON, Feb. 15—Attorney General John N. Mitchell resigned today to direct the President's re-election campaign, and Mr. Nixon immediately nominated Deputy Attorney General Richard G. Kleindienst to succeed him.

The nomination of Mr. Kleindienst, a law-and-order conservative, set the stage for another lively Senate confirmation battle. Mr. Mitchell's resignation is effective March 1.

A repetition of a now-familiar Senate Judiciary Committee drama, with liberal Democrats questioning a Nixon nominee closely about his views of civil liberties and Federal power, is expected to unfold when the confirmation hearings being on Tuesday.

However, initial statements by Democratic Senators indicated that a struggle similar to the earlier ones over Mr. Nixon's Supreme Court nominees was not likely. They stressed that the President must be given wide latitude in selecting his cabinet.

New Deputy Selected

L. Patrick Gray 3d, an Assistant Attorney General in charge of the Justice Department's civil division, was named by Mr. Nixon to succeed Mr. Kleindienst as Deputy Attorney General. The Judiciary Committee will hold joint hearings on the two nominees, beginning at 10:30 A.M. on Feb. 22.

Shortly after the White House announced Mr. Mitchell's resignation this morning, he issued a statement explaining that he had quit "to be able to participate in the campaign for the re-election of the President."

He added that, "I sincerely believe that whatever abilities I possess should be dedicated to the undertaking that will be most beneficial to the American people this year—namely the re-election of President Nixon."

Four years ago Mr. Mitchell withdrew from his Wall Street law firm, where he had been a law partner of Mr. Nixon's, to direct his successful election

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campaign. In recent weeks Republicans across the country began to clamor for a return of Mr. Mitchell's decisive and authoritative campaign leadership.

His resignation was reportedly delayed by a dispute within the Nixon Administration over the controversial Mr. Kleindienst.

Election Year Fears

Some of Mr. Nixon's advisers argued that because Mr. Kleindienst had been an outspoken proponent of the Justice Department's hard-line prosecutorial approach, his Senate hearings would be an occasion for an election-year re-hashing of some of the Nixon Administration's most controversial policies. Mr. Mitchell urged Mr. Kleindienst's nomination.

Mr. Kleindienst was quoted as saying that he would resign if someone else were given the top Justice Department position. There were also reports that he had told Mr. Nixon that he would not avoid the Senate struggle by functioning as Acting Attorney General until after the elections.

Senator Birch Bayh, Indiana Democrat who has been in the forefront of the earlier confirmation disputes, suggested today some of the issues that will be raised against Mr. Kleindienst.

The Senator cited "his very callous attitude in the whole area of civil rights," his attempts to "prevent newspapers and magazines from printing critical comments," and "the whole thing about law and order requiring bugging and spying on citizens."

Hart Hints Approval

The nominee is also expected to be questioned about his decision not to oppose the merger of the Warner-Lambert Company—a client of Mr. Nixon's and Mr. Mitchell's former law firm—with another giant drug company, Parke, Davis & Co.; his delay in reporting a $100,000 campaign contribution offer from a man later convicted of bribery, and his role in the Government's hostile reaction to some protest demonstrations here.

Senator Bayh said, however, that the scutiny need not be as close as in the case of a lifetime judgeship.

Senator Philip A. Hart, Michigan Democrat, who has also opposed recent Supreme Court nominations, said, "If the President says he needs him, the Senate should go along with it unless the nominee has a moral defect." He added that he knew of no moral defect in Mr. Kleindienst.

Senator Jacob K. Javits, New York Republican who has voted against three of Mr. Nixon's Supreme Court nominations, said that he would "give the nominee, whom I know well, every consideration."

Mr. Kleindienst, a 48-year-old Arizona native, first appeared on the national political scene as campaign director for Senator Barry Goldwater's Presidential drive in 1964.

His gregarious, earthy manner has made him a popular figure among Justice Department personnel but has earned him some enemies on Capitol Hill, where some officials consider him excessively blunt.

This afternoon Mr. Kleindienst and Mr. Gray the man chosen to replace him, appeared briefly at the Justice Department for picture-taking.

Mr. Kleindienst called it a "personally sad day for me" because of the resignation of Mr. Mitchell, "the greatest Attorney General that the Department of Justice has had in its 100-year history." He said he was "amazed" and "deeply flattered and sincerely humbled" by the day's events.

Long Nixon Loyalist

Mr. Gray, 55, was a career naval officer who met Mr. Nixon at a party here in 194[illegible] and became a devoted Nixon loyalist. He retired from the Navy in 1960 and, having obtained a law degree at night school here, went into private practice. He served as an executive assistant in the Department of Health, Education and Welfare before moving to the Justice Department in 1970.

Mr. Mitchell's resignation made him the eighth member of President Nixon's Cabinet to depart. He will move only about 150 yards from the White House gates, to 1701 Pennsylvania Avenue, where the Committee to Re-elect the President is housed on the third floor.

The Washington office of the former Nixon-Mitchell law firm, Mudge, Rose, Guthrie and Alexander, is right above on the fourth floor.

When Mr. Mitchell first came to Washington he used to speak frequently of his desire to return to his law practice. But in the last year he has not been heard to talk this way, and his wife, Martha, has given every indication of enjoying the limelight of official Washington.

If Mr. Nixon wins again, it is considered unlikely that Mr. Mitchell would take back the Attorney General job.

Ronald L. Ziegler, the White House press secretary, said that Mr. Mitchell's long-expected resignation had come in the form of a handwritten letter that he gave the President in his Oval Office yesterday afternoon. Its contents were not released.

A "Dear John" letter from Mr. Nixon was released, in which he praised Mr. Mitchell as "the leader of our fight against crime and lawlessness." He thanked Mr. Mitchell for his "consistently wise" advice and counsel, which he said was of "immense value to me throughout our Administration."

Mr. Nixon said he accepted the resignation with "utmost regret" compensated "by a sense of personal and heartfelt gratitude on behalf of myself and all Americans."

Lindsay Assails Move

Mayor Lindsay issued a statement yesterday on the appointment.

"President Nixon has done the impossible," the Mayor said. "He has chosen someone as Attorney General who may well be even less committed to individual rights and civil liberties than John Mitchell."

"Richard Kleindienst is not simply another law-and-order politician," he added. "He is an architect of the Administration's mass arrest policy, its 'no-knock' and preventive detention legislation and its retreat on civil rights."